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April 13, 2021

Synchrony Bank, N.A.
170 West Election Road, Suite 125
Draper, UT 84020

Re: Summons & Complaint
Kevin Prybilla v. Synchrony Bank, N.A.

To whom it concerns,

Please find attached and served upon you Plaintiff Kevin Prybilla's Summons & Complaint for his action against Synchrony Bank, N.A. for violating the Telephone Consumer Protection Act. If you have any questions, please do not hesitate to call me at (612) 824-4357 or email me at kimberly@bankruptcytruth.com.

Sincerely,

/s/ Kimberly Zillig
Kimberly Zillig

Enclosures

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Kevin Prybilla,

Plaintiff,

v.

Synchrony Bank, N.A.,

Defendant.

SUMMONS

Court File No. _____

THIS SUMMONS IS DIRECTED TO THE ABOVE-NAMED DEFENDANT(S)

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.**

You must give or mail to the person who signed this summons a written response called an Answer within 21 days of the date on which you received this Summons.

You must send a copy of your Answer to the person who signed this summons located at:

WALKER & WALKER LAW OFFICES, PLLC
ATTN: Kimberly Zillig
4356 Nicollet Avenue South
Minneapolis, MN 55409

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you

agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint. If you do not want to contest the claims stated in the complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the complaint.
5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.
6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Date: April 13, 2021

/s/ Kimberly Zillig
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Attorneys for Kevin Prybilla

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Kevin Prybilla,

Plaintiff,

v.

Synchrony Bank, N.A.,

Defendant.

COMPLAINT

Court File No. _____

1. Plaintiff Kevin Prybilla ("Prybilla") pleads the following claims based on violations of the Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227 *et seq.*, by Synchrony Bank, N.A. ("Synchrony").
2. Synchrony harassed Prybilla by repeatedly calling his cell phone using a robodialer, an act strictly prohibited by the TCPA.

VENUE, PARTIES, AND JURY TRIAL

3. Prybilla is a natural person residing in Ramsey County.
4. Synchrony Bank is a national association that regularly conducts business in Minnesota and Ramsey County specifically.
5. Venue is proper because Synchrony Bank regularly conducts business in Ramsey County, and because the claims at issue in this case occurred in and harmed a person living there.
6. Prybilla demands a jury trial to the extent available under US Const. Amend. 7.

THE TELEPHONE CONSUMER PROTECTION ACT

7. As more Americans began carrying cellular telephones in the 1990s, Congress sought to limit the potential for constant harassment posed by telemarketers and “automatic telephone dialing systems”—commonly called “robodialers.”
8. The TCPA was enacted to this end. Among other abusive actions, the TCPA prohibits anyone from calling a cell phone using a robodialer, an automated voice, or a pre-recorded message.
9. Despite the protections afforded by the TCPA, industry practices remain relatively unchanged. Robodialing continues to increase dramatically year-over-year, and robodialing is estimated to now comprise *half* of all cell phone calls in the United States. See Brian Fung, “Report: Americans got 26.3 billion robocalls last year, up 46 percent from 2017.” Wall Street Journal, January 29, 2019.

FACTS

10. Synchrony routinely calls Prybilla on his cell phone attempting to collect debt.
11. Synchrony places these calls to Prybilla using a robodialer, an artificial voice, or both.
12. When answering these robodialed calls, Prybilla immediately heard either a recorded, automated voice or a long pause of dead air. This pause indicates Synchrony’s robodialer calling Prybilla, and then connecting to a live operator at Synchrony within a few seconds of answering.
13. These factors, paired with the frequency of the calls, strongly suggest that Synchrony was calling Prybilla’s cell phone using a robodialer.

14. Synchrony did not have Prybilla's consent to use these electronic means to call his cell phone.
15. Prybilla also explicitly revoked any consent to be called on his cell phone by sending a letter to Synchrony on or about March 12, 2021. *See letter attached as EXHIBIT A.*
16. Despite this explicit revocation, Synchrony continued to robodial Prybilla's cell phone.
17. Following his revocation, Synchrony placed robodialed collection calls to Prybilla on at least (but not limited to) 13 subsequent occasions.
18. Synchrony disregarded his revocation of consent and willfully continued to contact Prybilla with impunity using a prohibited automatic telephone dialing system.

COUNT I: TELEPHONE CONSUMER PROTECTION ACT

19. Prybilla incorporates all other allegations as if set forth herein in full.
20. The TCPA bans using robodialers and artificial voices to call cell phones absent the consumer's explicit consent:

It shall be unlawful for any person within the United States . . . to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice . . . to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call" 47 U.S.C. § 227(b)(1).

21. Synchrony violated 47 U.S.C. § 227(b)(1) by knowingly calling Prybilla at least 13 times on his cell phone using an automatic dialing system and/or an artificial, pre-recorded voice without Prybilla's consent.

22. Synchrony also ignored Prybilla's explicit revocation of consent.
23. Synchrony thus willfully and knowingly violated § 227(b)(1).
24. Prybilla was stressed and harassed by the frequency of Synchrony's calls to his cell phone, and by his inability to stop these calls, as is his right by statute.
25. The TCPA provides the following remedy for its violation:

"A person or entity may, if otherwise permitted by the law or rules of court of a State, bring in an appropriate court of that State (A) an action based on a violation of this subsection . . . to enjoin such violation, (B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or (C) both such actions. If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph." 47 U.S.C. § 227(b)(3).
26. Prybilla is entitled to actual damages in an amount to be determined at trial or statutory damages of \$1,500 per each of Synchrony's telephone calls violating the TCPA, whichever is greater, under 47 U.S.C. § 227(b)(3).

RELIEF REQUESTED

Prybilla requests an Order for the following relief:

1. Judgment in favor of Kevin Prybilla and against Synchrony Bank, N.A. for actual damages, or for statutory damages of \$1,500 per each telephone call violating the TCPA, whichever is greater. 47 U.S.C. § 227(b)(3).
2. Interest accruing from commencement of this action at 4% for awards up to \$50,000.00, or at 10% for awards over \$50,000.00, under Minn. Stat. § 549.09.
3. All other relief the Court deems just and equitable.

Date: April 13, 2021

/s/ Kimberly Zillig
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Kimberly Zillig #278129
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(612) 824-4357
Attorneys for Kevin Prybilla

Acknowledgment

Plaintiff, by counsel, acknowledges that Minn. Stat. § 549.211 sanctions can be imposed.

Date: April 13, 2021

/s/ Kimberly Zillig
Kimberly Zillig #278129

EXHIBIT A

from: Kevin Prybilla

226 Rice Creek Blvd NE

Fridley, MN 55432

To: Synchrony Bank

140 Wekiva Springs Rd

Longwood, FL 32779

To Whom It Concerns,

My name is Kevin Prybilla. My phone number is 6124340829. Please don't call or text me anymore. These calls are very stressful, and I am in a time of financial distress.

If you need to look me up further, the last 4 digits of my social are: 9154, and my birthday is: .

Please do not call or text any of my references either.

Signature



Date

Friday, March 12, 2021